

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CASE NO. 13-66179-MGD
)	
BENJAMIN LICONA-FLORES and CRISTINA PORTILLO-TOMASINO,)	CHAPTER 7
)	
Debtors.)	
)	
NEIL C. GORDON, Chapter 7 Trustee for the Estates of Benjamin Licona-Flores and Cristina Portillo-Tomasino,)	
)	
V.)	
)	
REGIONAL ACCEPTANCE CORP. BENJAMIN LICONA-FLORES and CRISTINA PORTILLO-TOMASINO,)	
)	
Respondents.)	

**MOTION FOR AUTHORITY TO SELL PROPERTY OF THE ESTATE
FREE AND CLEAR OF ALL LIENS AND INTERESTS AND TO ALLOW AND
AUTHORIZE CERTAIN DISBURSEMENTS**

COMES NOW Neil C. Gordon, the Chapter 7 Trustee ("Trustee") of the bankruptcy estates of Benjamin Licona-Flores and Cristina Portillo-Tomasino (together the "Estate") and pursuant to 11 U.S.C. §§ 363(b) and (f) and Fed. R. Bankr. P. 2002(a)(2), 6004(a), 6004(c) and 9014, and through undersigned counsel, files this *Motion for Authority to Sell Property of the Estate Free and Clear of Liens and Interests and to Allow and Authorize Certain Disbursements* ("Sale Motion"), other than in the ordinary course of business and shows the Court as follows:

BACKGROUND

1. The debtors Benjamin Licona -Flores ("Mr. Licona-Flores") and Cristina Portillo-Tomasino (together, the "Debtors") filed his petition under Title 11, Chapter 7 on July 27, 2013 (the "Petition Date"), initiating Chapter 7 Case No. 13-66179-MGD (the "Case").

2. Also on the Petition Date, Debtor filed his *Schedules "A" through "J", Statement of Financial Affairs and other Bankruptcy Documents* (the "Sworn Statements").

3. On July 29, 2013, Trustee was appointed to the Case as interim Chapter 7 trustee. Trustee conducted the meeting of creditors on August 28, 2013, pursuant to 11 U.S.C. § 341(a) (the "341 Meeting"). At that time, Debtors failed to provide proper identification. Thereafter, property identification was provided, and the 341 Meeting was concluded on September 26, 2013, at which time, Trustee became the permanent Chapter 7 trustee.

4. Trustee filed his *Application to Appoint Attorney for Trustee* [Doc. No. 15] on September 13, 2013 and an *Order* [Doc. No. 16] was entered by the Court on September 16, 2013, authorizing the appointment of Arnall Golden Gregory LLP as attorneys for Trustee.

5. Debtors listed Mr. Licona-Flores's sole ownership of a 2012 Mazda 5 (the "Vehicle") which he purchased on April 8, 2013 through financing he obtained from Regional Acceptance Corporation ("RAC").

6. Based on his investigation, Trustee determined that RAC's security interest

in the Vehicle was not timely perfected and is avoidable by Trustee pursuant to 11 U.S.C. § 547 (the “Transfer”). RAC has conceded and agrees that the Transfer is indeed avoidable by Trustee. Further RAC has turned over the original *Certificate of Title* (the “Title Certificate”) to Trustee with its lien released and Trustee is holding the Vehicle for sale.

7. On February 27, 2014, Trustee filed his *Application to Employ Estate Liquidator* [Doc. No. 34] and an *Order* [Doc. No. 35] was entered by the Court authorizing the employment of Judith Friedman and Atlanta Antique and Estate Liquidators, Inc. (“AAELI”) as Trustee’s Estate liquidator.

8. Trustee requests authority to sell the Vehicle by private or public sale through AAELI, free and clear of all liens and interests, with any valid and enforceable liens(s) attaching to the proceeds of sale, pursuant to 11 U.S.C. §§ 363(b) and (f). The only lien on the Property was held by RAC which is the subject of a *bona fide* dispute and, pursuant to 11 U.S.C. §363(4). Moreover, RAC has (a) conceded that its lien is avoidable as a preference, (b) voluntarily released its lien on the Vehicle, and (c) surrendered the Title Certificate to Trustee, thereby consenting to Trustee’s sale of the Vehicle, pursuant to 11 U.S.C. § 363(f)(3). Trustee is not aware of any liens being asserted against the Vehicle.

9. Tentatively, AAELI will run an estate liquidation sale, which will include the Vehicle, beginning April 7, 2014 and concluding April 20, 2014, at the location of 36 Brookhaven Drive, NE, Atlanta, DeKalb County, Georgia 30319. These dates and times are subject to change.

WHEREFORE, Trustee prays this Court:

- a) approve Trustee's proposed sale of the Vehicle, following Notice to all creditors and parties in interest of the Sale Motion, the date of the Hearing, and the deadline for any objection;
- b) approve Trustee's proposed sale of the Vehicle;
- c) Fed.R.Bankr.P.6004(g) shall not apply and any Order entered shall be effective immediately so that the Trustee may proceed instanter with the sale; and
- d) grant such other and further relief as is just and proper.

Respectfully submitted,
ARNALL GOLDEN GREGORY, LLP

By: /s/ Neil C. Gordon

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Chapter 7 Trustee

CERTIFICATE SERVICE

This is to certify that I have mailed a copy of the Trustee's *Motion to Sell Property of the Estate Free and Clear of Liens and Interests and Allowing and Authorizing Certain Disbursements* by depositing in the United States mail a copy of same in a properly addressed envelope with adequate postage affixed thereon to assure delivery to:

Office of the United States Trustee
362 Richard B. Russell Building
75 Spring Street, S.W.
Atlanta, GA 30303

Michael S. Marr
Suite A-120
7130 Buford Highway, NE
Doraville, Georgia 30340

Benjamin Licon-Flores
1013 Lexus Drive
Lawrenceville, Georgia 30045

Cristina Portillo-Tomasino
1013 Lexus Drive
Lawrenceville, Georgia 30045

Regional Acceptance Corporation
1424 E. Fire Tower Road
Greenville, North Carolina 27858-4105

This 10th day of March, 2014.



/s/ Neil C. Gordon
Neil C. Gordon